

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL NO. 1456
LITIGATION)	Civil Action No. 01-12257-PBS
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THIS DOCUMENT RELATES TO:)	Judge Patti B. Saris
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<i>The City of New York v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 03-CV-06054))	
<i>County of Suffolk v. Abbott Labs., et al.</i>)	
(E.D.N.Y. No. CV-03-229))	
<i>County of Westchester v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 03-CV-6178))	
<i>County of Rockland v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 03-CV-7055))	
<i>County of Putnam v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 05-CV-04740))	
<i>County of Dutchess v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 05-CV-06458))	
<i>County of Putnam v. Abbott Labs., et al.</i>)	
(S.D.N.Y. No. 05-CV-04740))	
<i>County of Washington v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00408))	
<i>County of Rensselaer v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00422))	
<i>County of Albany v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00425))	
<i>County of Warren v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00468))	
<i>County of Greene v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00474))	
<i>County of Saratoga v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00478))	
<i>County of Columbia v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00867))	
<i>Essex County v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00878))	
<i>County of Ulster v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00123))	
<i>County of Chenango v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00354))	
<i>County of Broome v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00456))	
<i>County of Onondaga v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00088))	
<i>County of Tompkins v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00397))	
<i>County of Cayuga v. Abbott Labs., et al.</i>)	
(N.D.N.Y. No. 05-CV-00423))	

County of Madison v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00714))
County of Cortland v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00881))
County of Herkimer v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00415))
County of Oneida v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00489))
County of Fulton v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00519))
County of St. Lawrence v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00479))
County of Jefferson v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00715))
County of Lewis v. Abbott Labs, et al.)
(N.D.N.Y. No. 05-CV-00839))
County of Chautauqua v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06204))
County of Allegany v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06231))
County of Cattaraugus v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06242))
County of Genesee v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06206))
County of Wayne v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06138))
County of Monroe v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06148))
County of Yates v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06172))
County of Niagara v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06296))
County of Seneca v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06370))
County of Orleans v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06371))
County of Ontario v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06373))
County of Schuyler v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06387))
County of Wyoming v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06739))
County of Chemung v. Abbott Lab, et al.)
(W.D.N.Y. No. 05-CV-06744))
County of Nassau v. Abbott Labs, et al.)
(E.D.N.Y. No. 04-CV-5120))

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ELI LILLY AND COMPANY'S RENEWED MOTION TO DISMISS THE NEW YORK COUNTIES' FIRST AMENDED CONSOLIDATED COMPLAINT ON THE GROUND THAT IT PREVIOUSLY WAS DISMISSED FROM THIS CASE PURSUANT TO THE COURT'S "SUFFOLK 13" DECISION

Eli Lilly and Company ("Lilly") joins the consolidated motion to dismiss and memorandum filed by all defendants. Lilly files this separate individual motion to highlight and renew its prior motion to dismiss based on the fact that Lilly previously was dismissed from this case pursuant to the Court's "Suffolk 13" decision.

As Lilly explained in its prior memoranda on this subject [Docket Nos. 2192 and 2545], the Court already dismissed Lilly from this case. While Lilly's individual motion to dismiss remained pending, the New York Counties filed this new amended complaint.

The Court specifically addressed Lilly's status during oral argument on the motion to dismiss, stating "I thought I threw it [the complaint against the Suffolk 13 defendants] out. I reread them [the Court's prior decisions concerning the Suffolk 13] yesterday." Tr. of Oral Argument dated June 16, 2006 at 64:4-5.

The Court's recollection is correct: it did dismiss the claims against Lilly. The claims against Lilly should be dismissed with prejudice.

Respectfully submitted,

Dated: June 22, 2007

/s/ William A. Davis
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CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ William A. Davis

William A. Davis

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